

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF OREGON

3 EUGENE DIVISION

4 THE HON. MICHAEL J. McSHANE, JUDGE PRESIDING

5
6
7 UNITED STATES OF AMERICA,)

8 Government,)

9 v.)

No. 6:14-cr-00482-MC-1

10 DANIEL STEPHEN JOHNSON,)

11 Defendant.)

12
13
14 REPORTER'S TRANSCRIPT OF PROCEEDINGS

15 EUGENE, OREGON

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PROCEEDINGS

TUESDAY, MAY 1, 2018

THE COURT: Bring in the jury.

THE CLERK: I think they wanted to talk to you about a few things before we brought the jury in.

THE COURT: Okay. Some matters to discuss?

MR. SINHA: Yes, Your Honor.

THE COURT: Okay. We'll go on the record.

MR. SINHA: Thank you, Your Honor. I think that Mr. Johnson's counsel has a couple things, but from the government's perspective we just wanted to talk to the court, if we could, about the exhibits.

I know we had a pretrial conference where we talked about the exhibits. It seems that we may not have moved them all into evidence.

THE COURT: I know in most cases, certainly my civil trials, I pretty much consider any exhibit that's not objected to as preadmitted. But we really didn't have that discussion, so I guess I do want to clarify, with the exhibits that were not objected to, if we can just consider preadmitted and they can be used in front of the jury or whether each side has to move for admission of each exhibit.

MR. SINHA: Your Honor, I think that -- I have spoken as to Mr. Weinerman and I think if the court -- if it's fine with the court, what we would suggest is that we

13:21:32 1 consider everything essentially admitted, but we reserve our
2 objections to the handful of exhibits that we discussed and
3 we will raise those objections when the exhibit comes up.

4 THE COURT: Okay.

5 MR. SINHA: So if we could have a moment when a --
6 before an exhibit is published to the jury, we'll stand up
7 and object, if that sounds okay.

8 MR. WEINERMAN: Judge, that sounds fine.

9 MR. SWEET: Just one clarification, if I can, Your
10 Honor. I just spoke to Ms. Maxfield and let her know that I
11 provided Ms. Pew a copy of what we expect to be our third
12 exhibit list. But that -- to the extent that we are doing
13 this agreement, which makes perfect sense, I think it makes
14 sense to do it through our second exhibit list. And then
15 we'll discuss any of the additions with defense, so
16 everything --

17 THE COURT: All right. So all of the exhibits
18 that you are referencing will be generally preadmitted.
19 Ms. Pew will be able to show them to the jury as you are
20 presenting them to the witness unless there's a specific
21 objection. All right.

22 MR. WEINERMAN: So Judge, I do have some
23 preliminary objections to the testimony of the next witness.
24 I thought it would be best to share that with the court now.

25 THE COURT: Okay.

13:22:37 1 MR. WEINERMAN: Her name is Celena Ocen. I will
2 just read from her FBI 302 what I anticipate the government
3 will be eliciting. Number one, that she saw several of the
4 younger boys at Hope Transitions Center running around
5 dressed in girls' clothing. We object to that on relevancy
6 grounds. And when I say relevancy grounds throughout the
7 trial, I hope the court will allow me to say -- if we say
8 relevancy, we are also including in that 403. And not have
9 to repeat that, even if probative, it's substantially
10 outweighed by prejudice.

11 So we object to that. Don't think it is relevant.

12 Apparently the witness saw some metal pipes near
13 the window. She asked Johnson about it. And he replied, if
14 someone broke into the house, he could use the pipes to beat
15 them to death. We don't think that that's relevant to any
16 disputed fact in this case.

17 The next -- the next part that we object to is she
18 says here that she learned after Johnson was arrested that
19 the Cambodian police had Johnson under surveillance and had
20 observed him going out drinking and gambling on the nights
21 leading up to his arrest. That's hearsay. We don't think
22 that's admissible.

23 And then there's a part where she mentions someone
24 named Samsong, S-A-M-S-O-N-G, one of the boys at Hope
25 Transitions Center. She estimates him to be seven years

13:24:17 1 old. And he appeared in a photo that she saw to be bloody
2 and beaten up, and Johnson told her that Samsung's injuries
3 were the result of being hit by a car and dragged. She
4 found it strange that Johnson seemed happy about showing her
5 the picture and describing the incident.

6 And then again she mentions about seeing younger
7 boys dressed in girls' clothing.

8 I think we have just one more.

9 She -- the 302 is written -- it's not clear, but
10 at some point she said she either saw -- on the morning of
11 the arrest, either Mr. Johnson or a boy who had been in
12 Mr. Johnson's room. His hair was a mess and his clothing
13 was disheveled. We don't object to that.

14 But she said that he -- I think she is referring
15 now to Mr. Johnson -- appeared to have been drinking or
16 using drugs or maybe just exhausted. She clearly doesn't
17 know. And she is speculating what caused, apparently,
18 Mr. Johnson to have messed-up hair and disheveled clothing
19 first thing in the morning, which is how many people appear
20 when they get up.

21 So we object to those -- all of those
22 characterizations causing -- it's based on speculation.
23 It's not relevant. It's hearsay in some instances.

24 THE COURT: Does the government intend to go into
25 any of those five areas?

13:25:41 1 MR. SINHA: We would like to go to four of them,
2 Your Honor. So the one that I think I can take off the
3 table off the bat is we are not hoping -- and I talked to
4 Ms. Ocen about this, but I am happy to talk to her again.
5 We are not hoping to talk about what she learned from CMP
6 regarding Mr. Johnson drinking or gambling.

7 The rest we think are relevant. And if it's okay,
8 I will start with the last one.

9 THE COURT: Okay.

10 MR. SINHA: The 302, you know, perhaps it is
11 unclear. But what I anticipate she is going to testify to
12 is that there was 5:00 a.m. worship service. She --
13 Mr. Johnson did not attend that service. She was supposed
14 to meet with him right afterwards.

15 After the service she took a shower, she came
16 down. And then from approximately 6:00 a.m. until the
17 police came at 10:00 a.m., she sat in the living room where
18 she could view Mr. Johnson's bedroom door. She knocked on
19 the door repeatedly. Nobody answered. Eventually a boy
20 came out who looked about 14 years old. And it was the boy
21 who was disheveled, looked like he had not slept, just was
22 very out of sorts, coming out of this darkened room that
23 Mr. Johnson emerged from.

24 THE COURT: I think she can testify to that, but
25 not maybe speculate about what state of mind Mr. Johnson's

13:26:49 1 was or perhaps to some degree -- she can testify about what
2 she observed about the boy, but maybe not speculate about
3 his state of mind.

4 MR. SINHA: Okay. So I am happy if the court will
5 give me a moment before she is called to talk to her not to
6 talk about drinking or --

7 THE COURT: Okay.

8 MR. SINHA: In terms of the pipe, you know, a lot
9 the government's case and in fact one of the elements of
10 illicit sexual conduct, I believe, is that the boys were in
11 fear of Mr. Johnson. So the idea that he had these pipes
12 around the windows of the house and that he is telling
13 someone, "Well, I keep these pipes around so that if a
14 burglar comes in I can beat him to death," seems to me to be
15 pretty relevant to the context of fear.

16 THE COURT: It's probative to the issue of whether
17 he is over-disciplining the children or whether the children
18 are afraid of him, so I would sustain the objection.

19 MR. SINHA: And then with regards to the girls'
20 clothing, and I -- with regard to the girls' clothing. And
21 there was a boy -- and this maybe puts it in more context.
22 There was a boy who spoke to Ms. Ocen who said to her, "I am
23 a boy, not a girl," which I think was a pretty young boy.
24 And insofar as we had male children running around in
25 women's clothing, you know, given the charges, Your Honor,

13:27:59 1 of having sex with children and the sexualized environment
2 here; and this boy's statement saying that I am not a girl,
3 I am a boy, I think it's, again, relevant.

4 THE COURT: I will sustain the objection on
5 relevance.

6 MR. SINHA: Okay.

7 MR. WEINERMAN: And I do have one more. I
8 apologize, Judge. This is pretty easy.

9 Towards the end of the government's -- well it's
10 on page 3 of the government's 302. She says that ES XXX,
11 who is one of the alleged victims in the case, told Ms. Ocen
12 that he had been beaten by Johnson and that Johnson kicked
13 him out of the orphanage once because he had been a bad boy.
14 And then ES XXX cried outside of the gate until Johnson let
15 him return.

16 So the main objection we have is it's hearsay,
17 ES XXX's statement. The government is kind of taking a
18 position that they are anticipating there's going to be
19 impeachment and then it's admissible as a prior inconsistent
20 statement, but none of has happened yet. And it just seems
21 to me the ES XXX statement to this witness is hearsay at
22 this point.

23 THE COURT: Yes.

24 MR. SINHA: So Your Honor, I think it's within the
25 court's discretion to allow parties to put on anticipatory

13:29:14 1 rebuttal evidence. It seems to me they are probably not
2 going to get up and admit that Mr. Johnson threatened ES XXX
3 or hit him or kicked him out of the compound. We are just
4 asking to put on it here for expediency's sake. Otherwise,
5 we would call recall Ms. Ocen to testify to it.

6 If it turns out that that's not the defense's tack
7 we can, I am sure, agree to ask the court to strike that or
8 tell the jury to disregard it at a later point.

9 THE COURT: Is ES XXX testifying at some point?

10 MR. SINHA: He is. He is testifying, we are
11 hoping tomorrow.

12 THE COURT: So this is more of an anticipatory
13 prior consistent statement?

14 MR. SINHA: Yes, Your Honor.

15 THE COURT: I don't think I have ever done that
16 before, so I am going to ask that consistent statements
17 follow the actual statements that support following a -- I
18 guess a -- following a cross that may suggest that there is
19 a falsity to the statement.

20 MR. SINHA: Thank you, Your Honor.

21 THE COURT: All right. Thank you.

22 All right. Bring the jury in.

23 MR. SINHA: Your Honor, could I just have one
24 minute to speak to Ms. Ocen, to ask her --

25 THE COURT: Yes.

13:30:31 1 I think we didn't -- there was also the issue that
2 was about the photo where a child named Samsung appeared
3 while he was beaten from perhaps a car accident.

4 Are you seeking to introduce that?

5 MR. SINHA: Yeah. I think we'll just ask when we
6 get to that.

7 THE COURT: Okay. Thank you.

8 MR. SINHA: If the court will excuse me?

9 THE COURT: Yes.

10 Okay. Bring in the jury.

11 MS. BRITSCH: Your Honor, we have decided to put
12 Celena as a later witness in light of the court's ruling, so
13 we are going to be calling SO XXXXXXXX next. We have
14 informed the defense.

15 THE COURT: Okay. Great.

16 MS. BRITSCH: Thank you, Your Honor.

17 *(Jury in.)*

18 THE COURT: All right. Please be seated.

19 Next witness for the government.

20 MS. BRITSCH: Your Honor, the government calls
21 SO XXXXXXXX.

22 THE COURT: All right. That will be with a
23 translator; is that correct?

24 MS. BRITSCH: Yes, Your Honor.

25 THE COURT: All right. SO XXXX, I am going to

13:36:13 1 have you come to the witness stand here to my left, and you
2 can go ahead and step up the stairs with the translator.

3 If you will remain standing for just a moment, you
4 will be sworn in by Ms. Pew here.

5 THE CLERK: Please raise your right hand.

6 *(The witness was sworn.)*

7 THE WITNESS (By the interpreter): Yes.

8 THE COURT: SO XXXX, if you go could go ahead and
9 state your name for us, and could you please spell your
10 first and last name.

11 THE WITNESS (By the interpreter): My name is SO
12 XXXXXXXX. Should I spell -- should I spell it in English or
13 Cambodian?

14 THE COURT: I will have you spell it in Cambodian,
15 and we will have the translator then spell it in English for
16 us.

17 THE WITNESS (By the interpreter): My name is SO
18 XXX. It's spelled SO XXXXXXXX. And SOX is SO XX

19 THE COURT: All right. Thank you, SO XXXX.

20 SO XXXX, first I want to ask you, do you speak any
21 English?

22 THE WITNESS (By the interpreter): Yes, I do. I
23 know how to speak some.

24 THE COURT: Okay. I want you to listen to the
25 question and first let it be translated in Cambodian, even

13:38:07 1 if you understand some English. Okay?

2 THE WITNESS (By the interpreter): Yes.

3 THE COURT: Okay.

4 And have you had an opportunity to speak in
5 Cambodian to the translator who is assisting you?

6 THE WITNESS (By the interpreter): Yes.

7 THE COURT: Are you having any trouble
8 understanding the Cambodian translator?

9 THE WITNESS (By the interpreter): No, I don't.

10 THE COURT: All right. I am going to go ahead and
11 let the attorneys now ask you some questions. If at any
12 time you do not understand a question, please ask for
13 clarification.

14 THE WITNESS (By the interpreter): Yes.

15 THE COURT: All right, counsel, go ahead.

16 MS. BRITSCH: Thank you, Your Honor.

17 **DIRECT EXAMINATION**

18 BY MS. BRITSCH:

19 Q. Good afternoon, SO XXX.

20 A. (By the interpreter) Good afternoon.

21 Q. How old are you?

22 A. (By the interpreter) 20.

23 Q. And when is your birthday?

24 A. (By the interpreter) XXXXXXXXXXXXXXXX 1997.

25 Q. And do you have a passport?

13:39:35 1 A. (By the interpreter) Yes.

2 Q. I am going to ask you to take a look at Government

3 Exhibit 154, please, and it will be on your screen to the

4 left.

5 Do you recognize that?

6 A. (By the interpreter) Yes.

7 Q. And what is it?

8 A. (By the interpreter) It is my passport.

9 Q. And does that reflect your birth date, XXXXXXXXXXXXXXXX,

10 1997?

11 A. (By the interpreter) Yes.

12 Q. SO XXX, where are you from?

13 A. (By the interpreter) I am from Cambodia.

14 Q. And is that where you live now?

15 A. (By the interpreter) Yes.

16 Q. And what do you do in Cambodia?

17 A. (By the interpreter) I am going to school. I am at

18 first year.

19 Q. Is that first year of university?

20 A. (By the interpreter) Yes.

21 Q. And what are you studying at university?

22 A. Business administration.

23 Q. And do you also work in Cambodia?

24 A. (By the interpreter) Yes, I am working part time.

25 Q. And what kind of work do you do part time?

13:41:17 1 A. (By the interpreter) I help selling things online with
2 my mom, for my mom.

3 Q. And you mentioned your mom. Do you have any other
4 family in Cambodia?

5 A. (By the interpreter) I have one older sister and my
6 stepdad, who is living with my mom.

7 Q. And do you live with your mom and stepdad now?

8 A. (By the interpreter) No.

9 Q. Who do you live with now?

10 A. (By the interpreter) I am living with Pastor Sopheak.

11 Q. Now, SO XXX, I am going to ask you a few questions
12 about a man named Daniel Johnson.

13 Do you know Daniel Johnson?

14 A. (By the interpreter) Yes.

15 Q. And how do you know him?

16 A. (By the interpreter) I was living with him.

17 Q. And was that in Cambodia?

18 A. (By the interpreter) Yes.

19 Q. And when were you living with him?

20 A. (By the interpreter) I started living with him in 2010.

21 Q. Okay. And so you were born in 1997. In 2010, would
22 you have been 12 or 13 years old?

23 INTERPRETER LIM: I am sorry, Counsel, the
24 interpreter did not hear the last part.

25

13:43:27 1 BY MS. BRITSCH:
2 Q. I apologize.
3 In 2010, would you have been 12 or 13 years old?
4 A. (By the interpreter) Yes.
5 Q. And you said you lived with Daniel Johnson. Was that
6 at a place called Hope Transitions Center.
7 A. (By the interpreter) Yes.
8 Q. And how did you first meet Daniel Johnson?
9 A. (By the interpreter) I -- I met Daniel Johnson through
10 my older cousin named Richard.
11 INTERPRETER LIM: I am sorry. The interpreter did
12 not hear the name.
13 A. (By the interpreter) Richard. Richard.
14 BY MS. BRITSCH:
15 Q. And where were you living at the time?
16 A. (By the interpreter) I was living with my uncle.
17 Q. And why were you living with your uncle at that time?
18 A. (By the interpreter) My mom and my dad got separated,
19 and so my mom sent me to live with my uncle.
20 Q. And why did your mom send you to live with your uncle?
21 A. (By the interpreter) She didn't have the ability to
22 raise me any longer.
23 Q. And how was it living with your uncle?
24 A. (By the interpreter) It was very difficult.
25 Q. Why was it difficult?

13:45:27 1 A. (By the interpreter) I -- he made me work a lot, and --
2 and he didn't allow me to go to sleep until 12 o'clock, and
3 I had to get up really early. So I just didn't feel good.
4 Q. So you said your cousin introduced you to Daniel
5 Johnson; is that right?
6 A. (By the interpreter) Yes.
7 Q. And did your cousin tell you about Hope Transitions
8 Center?
9 A. (By the interpreter) Prior -- prior to going there, he
10 told me.
11 Q. And so did you apply to live at Hope Transitions
12 Center?
13 A. (By the interpreter) Yes.
14 Q. And who filled out that application for you?
15 A. (By the interpreter) My older cousin.
16 Q. And did he put on that application that both of your
17 parents were dead?
18 A. (By the interpreter) Yes.
19 Q. Why did he do that?
20 A. (By the interpreter) Because -- because it's at that
21 organization you had to be an orphan before they accepted
22 you.
23 Q. And did your cousin tell you to continue saying your
24 parents were dead?
25 A. (By the interpreter) So my cousin filled it in like

13:47:44 1 that, and then the cousin told me to go ahead and continue
2 to say that, that my mom and dad died, because even if my
3 parents were alive, they couldn't raise me anyway.

4 Q. So after your cousin filled out the application, you
5 moved to Hope Transitions Center; is that right?

6 A. (By the interpreter) Yes.

7 Q. And you said you were about 12 or 13 years old at the
8 time?

9 A. (By the interpreter) Yes.

10 Q. I am going to ask you to take a look at a couple
11 pictures. The first is government Exhibit 19.

12 Do you recognize this picture?

13 One second. Sorry.

14 A. (By the interpreter) I don't remember the day that it
15 was taken, but I know that it is my picture.

16 Q. And do you remember where that photo was taken?

17 A. (By the interpreter) It was taken at the first house.

18 Q. And was that the first house for Hope Transitions
19 Center?

20 A. (By the interpreter) Yes.

21 Q. Was it taken soon after you moved in with Daniel
22 Johnson?

23 A. (By the interpreter) I don't remember when it was
24 taken.

25 Q. But you know it was at the first house?

13:49:43 1 A. (By the interpreter) Yes.

2 Q. I am going to ask you to take a look at Government

3 Exhibit 20.

4 Do you recognize that photo?

5 A. (By the interpreter) Yes.

6 Q. And is that you?

7 A. (By the interpreter) Yes.

8 Q. Do you remember where that photo was taken?

9 A. (By the interpreter) It was taken at the second home.

10 Q. Was that the second home for Hope Transitions Center?

11 A. (By the interpreter) Yes, it was my second home.

12 Q. I am going to ask you about life at Hope Transitions

13 Center.

14 What kinds of things did you do on a regular day

15 there?

16 A. (By the interpreter) On a normal day, we went to school

17 and we played, and then we also have chores.

18 Q. And who organized the chores?

19 A. (By the interpreter) Sometimes it was Daniel and

20 sometimes it was Papa Sim.

21 BY MS. BRITSCH:

22 Q. And was he another adult who lived at the orphanage?

23 A. (By the interpreter) Yes.

24 Q. Did you also have meals together at the orphanage?

25 A. (By the interpreter) Yes, we ate together. We kind of

13:51:54 1 push our tables together and we ate together.

2 Q. Did you also have Bible study at the orphanage?

3 A. (By the interpreter) Yes.

4 Q. Any other things that you did at the orphanage for fun?

5 A. (By the interpreter) We played sports and sometimes he
6 took us to, like, Kampot Province, and we had some good food
7 to eat.

8 Q. And when you say he, are you referring to Daniel
9 Johnson?

10 A. (By the interpreter) Yes.

11 Q. And Kampot Province, that was farther away from the
12 orphanage?

13 A. (By the interpreter) It is far.

14 Q. About how far?

15 A. (By the interpreter) About two to three hours.

16 Q. SO XXX, I want to talk to you about the time period
17 between about July 2011 through December 2013.

18 Were you living at Hope Transitions Center then?

19 A. (By the interpreter) Yes.

20 Q. And I would like to ask you about some things that
21 happened during that time that might be a little hard to
22 talk about.

23 Were there any problems with Daniel Johnson during
24 that time?

25 A. (By the interpreter) At the time, if I did something

13:54:18 1 wrong against the rules at the house, he would make me stand
2 against -- I mean facing the wall.

3 Q. Was that a punishment?

4 A. (By the interpreter) Yes, when we did not respect the
5 rules, and so we were punished.

6 Q. Did Daniel Johnson ever punish you any other way?

7 A. (By the interpreter) Sometimes when he was upset, he
8 would slap you, hit you a little bit.

9 Q. When you first arrived at Hope Transitions Center,
10 where did you sleep?

11 A. (By the interpreter) I slept upstairs.

12 Q. Did you notice that there were other kids who slept in
13 Daniel Johnson's bedroom?

14 A. (By the interpreter) I saw BT XX.

15 Q. Did you see anyone else?

16 INTERPRETER LIM: The interpreter did not hear the
17 witness. May he consult?

18 THE COURT: Yes.

19 THE WITNESS (By the interpreter): Just BT XX
20 stayed in his room with him.

21 BY MS. BRITSCH:

22 Q. Did there come a time where you slept in Daniel
23 Johnson's room?

24 A. (By the interpreter) Yes.

25 Q. And did you ever give Daniel Johnson massages when you

13:56:41 1 slept in his room?

2 A. (By the interpreter) Yes.

3 Q. What was Daniel wearing when you gave him massages?

4 A. (By the interpreter) Sometimes he had his underwear on.

5 Q. Was he sometimes naked?

6 A. (By the interpreter) No. He -- he wasn't -- never

7 naked when -- when it was massage time -- during the massage

8 time.

9 Q. Did he ever get naked when you were in his bedroom with

10 him?

11 A. (By the interpreter) When I was in the room with him

12 sometimes he -- he had his underwears on, but he had never

13 been naked.

14 Q. Now, when you were in his bedroom, did Daniel Johnson

15 ever touch you on any part of your body?

16 A. (By the interpreter) Yes.

17 Q. And can you tell me what part of your body Daniel

18 Johnson touched?

19 A. (By the interpreter) Daniel touched my dick.

20 Q. And when you say your dick, are you referring to your

21 penis?

22 A. (By the interpreter) Yes.

23 Q. When he touched your penis, was it over your clothes or

24 under your clothes?

25 A. (By the interpreter) Under.

13:59:06 1 Q. And was the skin of his hand touching the skin of your
2 penis when that happened?
3 A. (By the interpreter) Yes.
4 Q. Did Daniel ever touch your penis with any other part of
5 his body?
6 A. (By the interpreter) Sometimes he used his mouth.
7 Q. And he put his mouth on your penis?
8 A. (By the interpreter) Yes.
9 Q. Did Daniel ever touch your body with his penis?
10 BY MR. WEINERMAN: I am sorry, Counsel, can you
11 repeat that?
12 BY MS. BRITSCH:
13 Q. Yes. Did Daniel Johnson ever touch your body with his
14 penis?
15 A. (By the interpreter) Yes.
16 Q. What part of your body did Daniel Johnson's penis
17 touch?
18 A. (By the interpreter) Sometimes it was with my butt.
19 Q. And when his penis touched your butt, did he penetrate
20 you?
21 A. (By the interpreter) I tried to avoid it.
22 Q. And what did you do to try to avoid it?
23 A. (By the interpreter) I tried to twist my body away.
24 Q. Was it ever painful?
25 A. (By the interpreter) There were times that I felt pain,

14:01:23 1 some pain.

2 Q. Do you remember when the sexual abuse first started?

3 A. (By the interpreter) It was at the old house, the first

4 house.

5 Q. The first house of Hope Transitions Center?

6 A. (By the interpreter) Yes.

7 Q. Did Daniel Johnson sexually abuse you at any of the

8 other houses?

9 A. (By the interpreter) It was at the first house, the

10 second house, and the third house.

11 Q. So would you say that the abuse lasted about two to

12 three years, then?

13 A. (By the interpreter) Yes, that's about so.

14 Q. How often did Daniel Johnson sexually abuse you?

15 A. (By the interpreter) It was about two to three times a

16 month.

17 Q. And was it always in Daniel Johnson's bedroom that it

18 happened?

19 A. (By the interpreter) Yes.

20 Q. Was anyone else ever in the room when this happened to

21 you?

22 A. (By the interpreter) At the first house there was

23 somebody there, but that person was asleep, so he didn't

24 see.

25 Q. Do you remember who that person was?

14:03:43 1 A. (By the interpreter) I don't remember.

2 Q. Did Daniel Johnson ever give you any gifts or money

3 when you were in his bedroom?

4 A. (By the interpreter) Sometimes he gave me money and

5 sometimes he gave me something to eat.

6 Q. What kinds of things would he give you to eat?

7 A. (By the interpreter) Ice cream, candy and cookies.

8 Q. Did Daniel Johnson ever apologize to you after he did

9 these things?

10 A. (By the interpreter) Yes, he did apologize.

11 Q. And what did he say when he apologized?

12 A. (By the interpreter) He -- he said he was sorry, but he

13 said it in English.

14 Q. When did the sexual abuse stop?

15 A. (By the interpreter) It was at the third house.

16 Q. And did anything happen that made it stop?

17 A. (By the interpreter) At that time the police came to

18 arrest him.

19 Q. Did you ever see Daniel again after he was arrested?

20 A. (By the interpreter) Yes.

21 Q. And where was that?

22 A. (By the interpreter) At the Prey Sar prison.

23 Q. Is that in Cambodia?

24 A. (By the interpreter) Yes.

25 Q. So you visited him there while he was in jail?

14:06:11 1 A. (By the interpreter) Yes.
2 Q. About how many times did you visit him?
3 A. (By the interpreter) I went, like, three, four, five
4 times a month.
5 Q. And was that right after he had been arrested?
6 A. (By the interpreter) Yes.
7 Q. What was that like for you?
8 A. (By the interpreter) Um, at that time I went to see him
9 because I missed him and I wanted to see him.
10 Q. And how did you feel about seeing him in jail?
11 A. (By the interpreter) I had a feeling I felt sorry for
12 him.
13 Q. Did Daniel tell you anything when you saw him in jail?
14 A. (By the interpreter) He said that when he came out he
15 would come to live with me again.
16 Q. Did he say where you would live together?
17 A. (By the interpreter) He said he wanted to go to live in
18 Siem Reap.
19 Q. Is that what you also wanted at the time?
20 A. (By the interpreter) Yes, because I also wanted to go
21 live with him.
22 MR. WEINERMAN: Judge, I am sorry to interrupt.
23 We didn't hear the last answer about where they went to
24 live. It sounded like Syria, but I couldn't hear it.
25 THE COURT: Could we clarify?

14:08:33

1 BY MS. BRITSCH:

2 Q. Yes. Did Daniel Johnson say you would live together in
3 Siem Reap?

4 A. (By the interpreter) Yes.

5 Q. Is that in Cambodia?

6 A. (By the interpreter) Yes.

7 MR. WEINERMAN: Thank you.

8 BY MS. BRITSCH:

9 Q. Why did you want to live with Daniel Johnson in Siem
10 Reap?

11 A. (By the interpreter) because I loved him as my father.

12 Q. Did you also communicate with Daniel on Facebook after
13 he was arrested?

14 A. (By the interpreter) Yes.

15 Q. And did you continue to talk about the plan to live in
16 Siem Reap together?

17 A. (By the interpreter) Yes.

18 Q. What else did you talk about on Facebook with Daniel?

19 INTERPRETER LIM: Can the interpreter clarify.

20 THE COURT: Yes.

21 A. (By the interpreter) I told him I loved him and I
22 prayed for him every day.

23 BY MS. BRITSCH:

24 Q. When you were living with Daniel Johnson, did you have
25 a Facebook account?

14:10:27 1 A. (By the interpreter) At first I actually used Facebook,
2 but I didn't have the account and then -- because he said it
3 was too -- he didn't want me to use Facebook because I was
4 not old enough. And then after that, later on he created
5 one for me.

6 Q. And before he created one for you, were you using
7 someone else's account?

8 A. (By the interpreter) At that time I used Brother Tola's
9 Facebook account.

10 Q. And did Daniel Johnson find out about that?

11 A. (By the interpreter) At that time Daniel saw my picture
12 in the account, so, in Tola's account, so he talked to Tola,
13 and then Tola talked to me, and then I went and told him.

14 Q. And how did Daniel react?

15 A. (By the interpreter) At that time I was not there, but
16 Tola told me.

17 Q. And did Daniel approach you about having used Tola's
18 Facebook account?

19 A. (By the interpreter) No. He didn't know that I used
20 the account, and Tola didn't tell him.

21 Q. So he never found out?

22 A. (By the interpreter) Then he didn't know, and then
23 after that I created my own account, and I was just
24 sneaking -- I was sneaking and using that account, and then
25 he found out.

14:13:19 1 Q. And what did he do when he found out you were sneaking
2 around with your own account?

3 A. (By the interpreter) So he -- he was upset, and he
4 asked me why I used the Facebook, and then he hit me with a
5 belt a little bit, and then he threatened to have me
6 arrested.

7 Q. And how did you feel when he did that?

8 A. (By the interpreter) I was scared because I didn't want
9 to be in jail.

10 Q. Now, SO XXX, when you were first asked about sexual
11 abuse by Daniel Johnson, did you tell the truth?

12 A. (By the interpreter) At first, in Cambodia, I didn't
13 tell the truth.

14 Q. And was that to the Cambodian national police?

15 A. (By the interpreter) Yes.

16 Q. Why didn't you tell the truth at that time?

17 A. (By the interpreter) At that time because I still loved
18 Daniel, and I wanted him to come out of the prison and to
19 live with me again.

20 Q. Were there any other reasons you didn't tell the truth
21 at that time?

22 A. (By the interpreter) I also feel sorry for him, and --
23 and I wanted him to come out, and he wanted to -- well, he
24 helped a lot of other children, and I want him to continue
25 to help other children. And that's why I couldn't tell the

14:16:06 1 truth.

2 Q. So you were grateful for the good things he was doing

3 for you and other children, correct?

4 A. (By the interpreter) Yes.

5 Q. Did you eventually tell the FBI the truth?

6 A. (By the interpreter) The first time with the FBI, I did

7 not tell the truth.

8 Q. And was that with Martha?

9 A. (By the interpreter) I don't remember her name, but she

10 is a little bit older.

11 Q. Was the lady from the FBI, though?

12 A. (By the interpreter) She said that she was working with

13 FBI.

14 Q. And then did you later talk to somebody else from the

15 FBI?

16 A. (By the interpreter) Yes.

17 Q. And did you tell him the truth about what happened

18 between you and Daniel?

19 A. (By the interpreter) At that time, I met with an FBI by

20 the name of Daniel, and I told him the truth.

21 Q. And why did you decide to tell FBI Special Agent Daniel

22 the truth?

23 A. (By the interpreter) I decided to tell the truth

24 because it would help other children, and also Daniel also

25 lied to me a lot.

14:18:18 1 Q. And can you explain? When you say Daniel lied to you,
2 was that about abusing other children at the orphanage?

3 A. (By the interpreter) Yes.

4 Q. And how did you know that Daniel Johnson was lying to
5 you about abusing other children at the orphanage?

6 MR. WEINERMAN: Objection; calls for hearsay.

7 THE COURT: Overruled.

8 A. (By the interpreter) At the second home I lived -- I
9 mean I stayed in his room with him. Then I saw him did
10 something with LT XXXXXXX and also ES XXX.

11 BY MS. BRITSCH:

12 Q. Can you explain what you saw Daniel do with LT XXXXXXX?

13 A. (By the interpreter) At that time I saw him put LT
14 XXXXXXX on top of him.

15 Q. And when you saw that, were Daniel and LT XXXXXXX
16 wearing any clothes?

17 A. (By the interpreter) No.

18 Q. And what did it look like they were doing?

19 A. (By the interpreter) At that time LT XXXXXXX was on top
20 of him, and I looked at it a little bit and then I just
21 close my eyes.

22 Q. And you mentioned ES XXX as well. What did you see
23 Daniel Johnson and ES XXX doing in Daniel's bedroom?

24 A. (By the interpreter) I saw him naked, so I threw a
25 blanket over him, and I told ES XXX to go to church. And

14:21:04 1 ES XXX told me to wait.

2 Q. And when you saw ES XXX naked, where was ES XXX?

3 A. (By the interpreter) ES XXX was in the -- on the

4 mattress on the bed but he was under the blanket, and the

5 other one was naked, so I threw the blanket on him.

6 Q. And when you say "the other one," who are you referring

7 to?

8 A. (By the interpreter) Daniel.

9 Q. So Daniel and ES XXX were both naked in Daniel

10 Johnson's bedroom?

11 A. (By the interpreter) Yes.

12 Q. Before Daniel's arrest, did you ever tell anyone that

13 he was sexually abusing you?

14 A. (By the interpreter) At that time I told BT XX and

15 Richard Cha.

16 Q. So you told BT XX and another person named Cha?

17 A. (By the interpreter) Yes.

18 Q. And who was Cha?

19 A. (By the interpreter) Cha was the -- another kid who

20 lived with me also, but he's not here.

21 Q. Did you ever tell anyone else besides BT XX and Cha?

22 A. (By the interpreter) I told Pastor Sopheak about those

23 problems too.

24 Q. Do you remember when you told Pastor Sopheak about the

25 problems?

14:23:35 1 A. (By the interpreter) I don't remember when, but it was
2 at the third house.

3 Q. The third house, is that where Daniel Johnson was
4 arrested?

5 A. (By the interpreter) Yes.

6 Q. SO XXX, have you forgiven Daniel for what he did to
7 you?

8 A. (By the interpreter) Yes, I forgave him since the time
9 that he was arrested.

10 Q. And how do you feel about Daniel Johnson now?

11 A. (By the interpreter) I feel sorry for him, but sometime
12 I wonder why he didn't tell the truth to the police.

13 MS. BRITSCH: Ask for one minute, Your Honor.

14 THE COURT: Sure.

15 MS. BRITSCH: No further questions, Your Honor.

16 THE COURT: All right. Cross-examination.

17 **CROSS-EXAMINATION**

18 BY MR. WEINERMAN:

19 Q. Is it all right if I call you SO XXX?

20 A. (By the interpreter) Yes.

21 Q. My name is Craig Weinerman. I am Daniel Johnson's
22 attorney, and I would like to ask you some questions.

23 Daniel did a lot to help you when you were at Hope
24 Transitions Center?

25 A. (By the interpreter) Yes.

14:26:00 1 Q. He helped you with your English?

2 A. (By the interpreter) Yes.

3 Q. And he taught a class or provided a class on good

4 manners?

5 A. (By the interpreter) Yes.

6 Q. And he provided computer classes?

7 A. (By the interpreter) Yes.

8 Q. And he paid for travel expenses for you to go home

9 during the holidays?

10 A. (By the interpreter) Yes.

11 Q. And he helped establish a church in Prey Veng?

12 A. (By the interpreter) Yes.

13 Q. And did you help with the building of the church in

14 Prey Veng?

15 A. (By the interpreter) Yes.

16 Q. And he did the same in Kampot?

17 A. (By the interpreter) Yes.

18 Q. And did you help him with that?

19 A. (By the interpreter) Yes.

20 Q. And he brought the Christian religion to Cambodia?

21 A. (By the interpreter) Yes.

22 Q. And he helped people in Cambodia?

23 A. (By the interpreter) Yes.

24 Q. He helped them with medical problems?

25 A. (By the interpreter) Yes.

14:27:35 1 Q. And did you attend some of the clinics to help people
2 with medical problems?
3 A. (By the interpreter) Yes.
4 Q. You helped out?
5 A. (By the interpreter) Yes.
6 Q. He distributed eye glasses?
7 A. (By the interpreter) Yes.
8 Q. And he dug many wells in many villages in Cambodia?
9 A. (By the interpreter) Yes.
10 Q. And you helped him do that as well?
11 A. (By the interpreter) No, I -- I did not participate in
12 well digging.
13 Q. Now, you talked about a few interviews you gave after
14 Daniel Johnson was arrested. You were interviewed a number
15 of times in Cambodia by both the Cambodian police and the
16 FBI?
17 A. (By the interpreter) Yes.
18 Q. And you were interviewed by the Cambodian national
19 police right after Daniel was arrested?
20 A. (By the interpreter) At that time APLE organization
21 came down after the -- after the arrest of Daniel Johnson.
22 Q. Did you talk to APLE or did you talk to the police
23 after Daniel was arrested?
24 A. (By the interpreter) At that time, APLE organization
25 came to ask me.

14:29:41

1 Q. That was right after Daniel was arrested?

2 A. (By the interpreter) After he was arrested, they went
3 into individual room to -- to ask questions.

4 Q. So you never talked to someone about Daniel from the
5 Cambodian police?

6 Let me ask that again. Did you talk to anyone
7 from the Cambodian national police right after Daniel was
8 arrested?

9 A. (By the interpreter) I never spoke to the Cambodian
10 national police.

11 Q. But you told APLE that Daniel didn't do anything to you
12 sexually?

13 A. (By the interpreter) Yes, at that time I didn't tell
14 the truth.

15 Q. And then about nine months later, the FBI came to
16 Cambodia, correct?

17 A. (By the interpreter) The first FBI, I didn't tell the
18 truth either.

19 Q. They came to Cambodia in November of 2014, correct?

20 A. (By the interpreter) I don't remember the date.

21 Q. Could it have been maybe almost a year after Daniel was
22 arrested?

23 A. (By the interpreter) Maybe about so, but I don't
24 remember clearly.

25 Q. You were interviewed by a lady, an FBI lady?

14:31:53

1 A. (By the interpreter) Yes.

2 Q. And she wore glasses?

3 A. (By the interpreter) I don't remember if she wore
4 glasses or not.

5 Q. Do you remember if her name was Martha?

6 A. (By the interpreter) I just remember that she was a
7 little bit older.

8 Q. I am sure she would appreciate that.

9 So when the older lady interviewed you, she told
10 you she interviewed many people like you; like you, SO XXX,
11 correct?

12 A. (By the interpreter) Yes.

13 Q. And she told you that you should tell the truth?

14 A. (By the interpreter) Yes, she told me to tell the
15 truth.

16 Q. And you shouldn't be afraid to tell the truth?

17 A. (By the interpreter) At that time she said the best
18 thing to do was -- to tell the truth was the best thing to
19 do, and at that time I hadn't decided to tell the truth.

20 Q. She told you you shouldn't be embarrassed to tell the
21 truth?

22 A. (By the interpreter) Yes.

23 Q. And she had a video camera?

24 A. (By the interpreter) Yes.

25 Q. And everything you told her was on video camera?

14:34:06 1 A. (By the interpreter) Yes.

2 Q. Had you watched the video since you met with this older

3 lady in 2014?

4 A. (By the interpreter) I got to see the video once I got

5 to the U.S.

6 Q. Okay. Did you watch the whole thing?

7 A. (By the interpreter) I got to see briefly.

8 Q. The whole video or just part of the video?

9 A. (By the interpreter) I watched the entire video, but I

10 was kind of like fast-forward at parts that are not

11 important.

12 Q. And who showed you the video?

13 A. (By the interpreter) FBI.

14 Q. FBI here in Eugene?

15 Here in Oregon?

16 A. (By the interpreter) Yes.

17 Q. Okay. So let's talk about how many times you talked

18 about all this. You talked to Apple, right?

19 A. Yes.

20 Q. Right after Daniel was arrested, right?

21 A. (By the interpreter) Yes.

22 Q. And then you talked to the FBI a few months later with

23 the older lady, right?

24 A. (By the interpreter) Yes.

25 Q. And then you talked to the FBI again in Cambodia around

14:36:13 1 2016, correct?

2 A. (By the interpreter) I don't remember the year.

3 Q. That's with the agent you call Daniel.

4 A. (By the interpreter) Yes, I met with him at the Aeon

5 Mall.

6 Q. In Cambodia?

7 A. (By the interpreter) Yes.

8 Q. Okay. And did he give you anything while you were

9 there? For example, did he give you money for food and

10 things like that?

11 A. (By the interpreter) At that time he didn't --

12 INTERPRETER LIM: Well, strike that.

13 A. (By the interpreter) He didn't give me anything, but he

14 did pay for my food.

15 Q. And did he pay for the food before you talked to him

16 about what happened with Daniel?

17 A. (By the interpreter) Before I met with him, I wanted to

18 eat because I was hungry.

19 Q. And he didn't have a video, did he?

20 A. (By the interpreter) No, he did not have a video.

21 Q. Did he have a tape recorder or audio recorder?

22 A. (By the interpreter) At that time, I don't remember

23 because I just spoke to him like I would normally -- like a

24 normal thing.

25 Q. Not like when you were on video with the other lady?

14:38:23 1 A. (By the interpreter) Correct.

2 Q. And that's the time that you told him that Daniel had

3 done some sexual things to you, correct?

4 A. (By the interpreter) Yes.

5 Q. I think you testified earlier that you looked at Daniel

6 as your father?

7 A. (By the interpreter) Yes.

8 Q. And you took his last name?

9 A. (By the interpreter) Yes, on the Facebook.

10 Q. On Facebook you said your father is SO XXX -- I am

11 sorry. Let me start that over again.

12 You referred to yourself on your Facebook page as

13 SO XXXXXXXXXXXX, correct?

14 A. (By the interpreter) Yes. At that time he created a

15 Facebook account for me, and he put it SO XXX -- SO

16 XXXXXXXXXXXX.

17 Q. I want to ask you a few questions about massages.

18 You gave -- I think you testified you gave Daniel

19 Johnson massages when you lived at Hope Transitions Center.

20 A. (By the interpreter) Yes.

21 Q. Did you give anyone else a massage at Hope Transitions

22 Center?

23 A. (By the interpreter) No.

24 Q. Had you ever given a man a massage besides Daniel

25 Johnson?

14:40:44

1 A. (By the interpreter) At the organization, no.

2 Q. Besides the organization.

3 So let me ask it like this: Have you ever given a
4 family member a massage?

5 A. (By the interpreter) Yes. Massage for my grandpa.

6 Q. Any other relative?

7 A. (By the interpreter) No.

8 Q. Is that common in Cambodian culture to give an older
9 relative a massage if he asks for one?

10 A. (By the interpreter) Yes.

11 Q. Besides massaging Daniel, did you often engage in
12 what's called coining? Coining?

13 A. (By the interpreter) I have never coined him.

14 Q. Okay. Coining is when you -- that's deep muscle
15 massage? Deep muscle massage?

16 A. (By the interpreter) You only do coining when you are
17 sick. So Cambodian people, we tend to do coining.

18 Q. So I am going to read you something that you told the
19 FBI the first time you talked to them when they came to
20 Cambodia.

21 MR. WEINERMAN: And I am referring to Johnson
22 57624, Counsel.

23 BY MR. WEINERMAN:

24 Q. So I am going to ask you if you remember saying this to
25 the lady you talked to in Cambodia.

14:43:15 1 A. (By the interpreter) Yes.

2 Q. You were asked this question: Can you tell from the
3 beginning until the end how you would massage him --
4 referring to Daniel.

5 And you said I regarded him as my father and I
6 felt pity for him when he was sick. Cambodian people are
7 usually treated with coining when they are sick. But he,
8 referring now to Daniel, wouldn't like the treatment, so I
9 massaged his arms and legs.

10 So do you remember telling the FBI that you tried
11 to or you wanted to treat Daniel when he was sick with
12 coining but he wouldn't like the treatment?

13 A. (By the interpreter) I never told her that I coined
14 him. I only said that I gave him a massage just like a
15 regular massage.

16 Q. Okay. So this subject of coining never came up when
17 you talked to the FBI?

18 A. (By the interpreter) At that time when we talked about
19 coining, it had nothing to do with Daniel. But Daniel did
20 not like coining.

21 Q. How did you know that?

22 A. (By the interpreter) He told all of us at the center.

23 Q. All right. So when you gave Daniel massages, did he
24 usually wear -- well, let me ask, when SO XXX gave Daniel
25 massages, did SO XXX wear clothing?

14:46:00 1 A. (By the interpreter) Yes, I wore -- I was wearing
2 something.
3 Q. Pants?
4 A. (By the interpreter) Yes.
5 Q. Shirt?
6 A. (By the interpreter) Yes.
7 Q. Did you ever go to court in Cambodia the year after
8 Daniel was arrested?
9 A. (By the interpreter) I went.
10 Q. And were you asked to testify at Daniel's trial?
11 A. (By the interpreter) I went just to watch like
12 everybody else. It was not like this that I have to -- that
13 they asked me questions.
14 Q. Okay. So you never testified in court in Cambodia like
15 you are doing now?
16 A. (By the interpreter) Correct. I just went as normal
17 people, and they didn't ask questions or anything like that
18 like I am being asked right now.
19 Q. I want to talk to you a little bit about the room where
20 Daniel lived in at Hope Transitions Center.
21 Was Daniel's room the only room in the house that
22 was air conditioned?
23 A. (By the interpreter) Yes.
24 Q. And it had a television?
25 A. (By the interpreter) Yes.

14:48:43 1 Q. And it had a computer?

2 A. (By the interpreter) Yes.

3 Q. And it was a place where you could watch movies?

4 A. (By the interpreter) Yes. He had the television but we

5 also had a television outside for us to watch.

6 Q. Okay. But the television outside wasn't in an air

7 conditioned room?

8 A. (By the interpreter) Yes.

9 Q. So Daniel's room was very popular for kids to go into,

10 correct?

11 A. (By the interpreter) Yes.

12 Q. You could watch a movie when it was cool and not hot?

13 A. (By the interpreter) Yes.

14 Q. Cambodia can be very hot, correct?

15 A. (By the interpreter) Yes.

16 Q. Very humid?

17 A. (By the interpreter) Yes.

18 Q. You testified about Daniel giving you candy or food, I

19 believe.

20 A. (By the interpreter) Yes.

21 Q. And he did that quite often, right?

22 A. (By the interpreter) Yes.

23 Q. More than two or three times a month, correct?

24 A. (By the interpreter) Yes.

25 Q. You had people in the United States who were donors to

14:50:39 1 your living at Hope Transitions Center?

2 A. (By the interpreter) Yes.

3 Q. You had a sponsor, correct?

4 A. (By the interpreter) Yes.

5 Q. And your sponsor provided Daniel with money to pay for

6 things for you?

7 A. (By the interpreter) Yes.

8 Q. And Daniel used some of that money to get you things

9 like candy and food and other things?

10 A. (By the interpreter) Yes.

11 Q. And getting back to the computer in Daniel's room, he

12 allowed you to use it for your schoolwork?

13 A. (By the interpreter) At that time I was too young.

14 Q. Well, when you first got to Hope Transitions Center I

15 believe you said you were 13, correct?

16 A. (By the interpreter) Yeah. At the old house, the first

17 house, he set up the computers like at school, like a

18 computer class to teach computer.

19 Q. And were you able to use the computers?

20 A. (By the interpreter) At the time, I could use a little

21 bit.

22 Q. How about the last year you lived there? Were you

23 allowed to use the computer more?

24 A. (By the interpreter) At the old third house, we didn't

25 have computers like we did at the first house.

14:53:01 1 Q. Sometimes Daniel would punish you when you didn't
2 follow the rules?
3 A. (By the interpreter) Yes.
4 Q. And he once hit you with his hands, correct?
5 A. (By the interpreter) Yes.
6 Q. When you didn't follow the rules?
7 A. (By the interpreter) Yes.
8 Q. And he once hit you with a belt, correct?
9 A. Yes.
10 Q. When you didn't follow the rules?
11 A. (By the interpreter) Yes.
12 Q. And you didn't like that?
13 A. (By the interpreter) Correct.
14 Q. And you complained to someone about that, didn't you?
15 A. (By the interpreter) Yes.
16 Q. You complained to BT XXXXXXXX?
17 A. (By the interpreter) Yes.
18 Q. And he was an older boy who helped Daniel run the
19 center?
20 A. (By the interpreter) Yes.
21 Q. And when you had a problem with Daniel, you sometimes
22 talked to BT XXXXXXXX about it?
23 A. (By the interpreter) Yes.
24 Q. Now, earlier on in your testimony you testified about
25 your cousin telling you to lie about whether your parents

14:54:39 1 were alive.

2 A. (By the interpreter) Yes.

3 Q. Do you remember that?

4 A. (By the interpreter) Yes.

5 Q. So I think you testified you had to be an orphan to get
6 into Hope Transitions Center?

7 A. (By the interpreter) Well, at that time I really didn't
8 want to say that, but my older cousin told me that I had to
9 say that. If I didn't, I wouldn't be able to move there.

10 Q. So at the time you lied about that you were not an
11 orphan. Your parents were alive, right?

12 A. (By the interpreter) Yes. At that time my parents were
13 alive, but they disowned me. They gave -- they left me. So
14 my cousin said, well, if it was going to be like that, well,
15 we might as well just say that they were dead.

16 Q. And you agreed to do that?

17 A. (By the interpreter) Yes. I did that according to what
18 my cousin said because I also wanted to live there.

19 Q. At the time you moved to Hope Transitions I think you
20 said you were 13; 13 years old?

21 A. (By the interpreter) Yes, around 12 or 13 years old.

22 Q. So do you think it was wrong to lie about that?

23 A. (By the interpreter) Well, I feel that it was severely
24 wrong to do that, but my cousin said that I had to do that.
25 And if I didn't do that, I wouldn't be able to live there.

14:57:35 1 And it would have been really difficult not to be able to
2 live there.

3 Q. When you -- well, what -- did your parents who were
4 alive at the time have a job?

5 A. (By the interpreter) At that time I lived with my -- my
6 uncle, so I didn't really know anything about my parents,
7 and I didn't get to see them.

8 Q. When you were living at Hope Transitions Center, would
9 your mother come to visit you?

10 A. (By the interpreter) Well, I lived there until I moved
11 to the second home. My mom asked Daniel to allow my cousin
12 to live there also.

13 Q. So your mom visited you at the first house, right?

14 A. (By the interpreter) No, she never came at the first
15 house.

16 Q. She came at the second house?

17 A. (By the interpreter) Yes.

18 Q. And she pretended to be your aunt, not your mother?

19 A. (By the interpreter) Yes.

20 Q. And did she drive a nice car when she came to visit
21 you?

22 A. (By the interpreter) No, she didn't. She was not in a
23 car or anything like that.

24 Q. She didn't. Did she own a car?

25 A. (By the interpreter) No, she did not.

15:00:00 1 Q. So SO XXX, if it's going to help you, are you willing
2 to tell a lie if it can help you?

3 A. (By the interpreter) Well, at the time I was really
4 small, and my cousin told me to do that. And my parents --
5 my parents disowned me. And if I was to live with my uncle,
6 it would have been really difficult too.

7 Q. Well, you didn't like your uncle because he was very
8 hard on you, right?

9 A. (By the interpreter) Yes.

10 Q. So if you think it's going to help you, even today when
11 you are older, would you tell a lie?

12 A. (By the interpreter) Well, at the time when I was young
13 I didn't know, but when I got older I told him the truth, so
14 he knew the truth.

15 Q. Daniel knew the truth?

16 A. (By the interpreter) Yes. After that I told him that I
17 had parents, but they didn't care for me. They didn't take
18 care of me.

19 Q. And he let you stay?

20 A. (By the interpreter) Yes. So at the first house I told
21 him that my parents died. But not until the second house,
22 and I told him that I had parents but they didn't take care
23 of me.

24 Q. So earlier on you testified you are going to the
25 university?

15:02:59 1 A. (By the interpreter) Yes.

2 Q. And how much does that cost you to go to the

3 university?

4 A. (By the interpreter) \$500 a month -- I mean a year.

5 Q. Five hundred a year?

6 A. (By the interpreter) Yes. \$500 a year.

7 Q. And how are you paying for that?

8 A. (By the interpreter) I got a scholarship from the new

9 group called New Life.

10 Q. Did they pay the entire \$500?

11 A. (By the interpreter) Yes, they paid.

12 Q. So it's not costing you anything to go to school?

13 A. (By the interpreter) Yes. I don't have to pay anything

14 for schooling, but regarding shelter and food, I live with

15 my pastor, Pastor Sopheak.

16 Q. And that's -- he took over for Hope Transitions Center,

17 right?

18 A. (By the interpreter) He is not taking over Transitions

19 Center. After the problems everybody was going to give up,

20 but he felt sorry for me. So then he got a new house so we

21 could live together.

22 Q. So you -- is school going on right now?

23 A. (By the interpreter) Yes, schooling is going on right

24 now.

25 Q. Okay. And you are going to be gone from Cambodia for

15:05:29 1 about a month, right?

2 A. (By the interpreter) Yes. I will be here about a
3 month. But we had two weeks of vacation because of the
4 Cambodian New Year.

5 Q. So in the time you are here for a month, are you being
6 paid by the government for the time you are spending here
7 for the next month?

8 A. (By the interpreter) Yes.

9 Q. You get fees for being a witness?

10 A. (By the interpreter) Yes.

11 Q. You get expenses for eating and food and things like
12 that?

13 A. (By the interpreter) Yes.

14 Q. So that's \$99 a day, correct?

15 A. (By the interpreter) So I don't know how much per day,
16 but I know that this week I have received \$500.

17 Q. So for the entire time you are here, assuming you leave
18 and after four weeks, you are going to get \$2,000, if my
19 math is right?

20 A. (By the interpreter) Yes, four weeks it's about so.
21 But then again, I don't know what their plans are.

22 Q. The government's plans are?

23 A. (By the interpreter) I don't know if there is
24 changes -- if there are changes.

25 Q. You might stay longer?

15:07:49 1 A. (By the interpreter) I don't know.
2 Q. Have you talked to anybody about staying longer?
3 A. (By the interpreter) No, I never did.
4 Q. Are you going to talk to someone about staying longer?
5 A. (By the interpreter) I just spoke to the Hagar
6 organization's attorney because I just said that I wanted to
7 go to school here.
8 Q. Okay. Did you talk to the attorney about how you could
9 stay here after you are done in court?
10 A. (By the interpreter) I was just asking about going to
11 school here, and they said that we could talk -- could talk
12 after -- after this or later.
13 Q. All right. So for whatever reason, they didn't want to
14 talk to you about whether you could stay before you
15 testified?
16 JUROR: What attorney did he talk to about staying
17 here longer?
18 MR. WEINERMAN: I will ask the question if the
19 court allows it.
20 BY MR. WEINERMAN:
21 Q. Can you give us the name of the attorney that you
22 talked to about staying longer?
23 A. (By the interpreter) I don't know the name.
24 JUROR: I mean the organization.
25

15:10:00 1 BY MR. WEINERMAN:

2 Q. The organization, Hagar. Did you say Hagar? You
3 talked to someone at Hagar in Cambodia about staying here
4 longer?

5 A. (By the interpreter) I just said that I liked school in
6 the U.S., or here, and I just want to continue my schooling.

7 Q. Is the lawyer you talked to, is his name Rainwater?
8 That would be his last name? Rainwater?

9 A. (By the interpreter) I don't remember his name, but I
10 spoke to him.

11 Q. American lawyer?

12 A. (By the interpreter) Yes.

13 Q. And is it your understanding that there may be a way
14 for you to stay in the United States after you testify?

15 INTERPRETER LIM: Counselor, would you repeat for
16 me?

17 MR. WEINERMAN: Yes.

18 THE COURT: Let's take an afternoon break. Okay?
19 Give the court reporter a break.

20 Folks, we'll be in recess for 15 minutes. The
21 witness is sequestered while testifying, so you cannot talk
22 to him about his testimony.

23 (Jury out.)

24 (Recess.)

25 THE COURT: All right. Get SO XXXXXXXX back to the

15:26:40 1 stand.

2 Oh, we are waiting for some attorneys, too.

3 THE CLERK: It may be a minute. Some of the
4 jurors were having issues with their chairs.

5 MS. BRITSCH: And, Your Honor, there is one issue
6 we would like to address before we resume questioning.

7 THE COURT: Okay.

8 MS. BRITSCH: We are concerned that
9 Mr. Weinerman's questions are starting to invade the area of
10 attorney-client privilege. Certainly the benefits that the
11 witness has talked about with the government is fair game.
12 But to the extent these are conversations that the witness
13 has had with his own attorney, we don't think that's an
14 appropriate area for questioning.

15 Mr. Weinerman's elicited most of the information I
16 think he'd like to get, but we'd ask that the court instruct
17 him to not invade on communications between the witness and
18 his own attorney.

19 THE COURT: Well, quite frankly, I am not sure if
20 you can claim the privilege on his behalf or his attorney's
21 behalf, but I would object, if you have an objection, and
22 we'll go from there. You have allowed him to ask the
23 questions. I think it's appropriate that he's been asked
24 whether he spoke to an attorney about whether he could
25 continue to remain in the United States. I think he's

15:27:47 1 answered it the best he could.

2 I think the jury might have wanted some
3 clarification of whether these attorneys were you folks, and
4 I think you should clarify that. Or whether this other
5 individual that -- I think you folks know who this person
6 is. I don't, and the jury doesn't. So I think you need
7 some clarification there. I will leave that up to you on
8 redirect.

9 I mean, I think as long as we stay away from the
10 details of the conversation but speak in generalities about
11 approaching an attorney about the topic, that is fine.

12 MR. WEINERMAN: That was my intention.

13 THE COURT: All right.

14 MS. MAXFIELD: Your Honor, when we turn this one
15 on -- can we turn these on separately or do they go on
16 together?

17 THE COURT: There's a separate button on each one.

18 MS. MAXFIELD: I just didn't want -- I wanted to
19 talk to the client without cutting him off.

20 THE COURT: Right. That is a problem with that
21 table. It does pick up whispered conversations. So if it's
22 not off, I would say turn it away.

23 MS. MAXFIELD: All right. We'll just get more
24 Post-its.

25 THE COURT: Okay. All right. Please be seated

15:30:37 1 everybody.

2 All right. Mr. Weinerman, if you want to continue
3 with cross.

4 BY MR. WEINERMAN:

5 Q. So SO XXX, you are a very close friend of BT XXXXXXXX,
6 is that correct?

7 A. (By the interpreter) Yes.

8 Q. And you communicate with him on Facebook?

9 A. (By the interpreter) Yes.

10 Q. And BT XXXXXXXX has been in the United States for almost
11 five years, is that correct?

12 A. (By the interpreter) Yes.

13 Q. And you know how he has managed to be able to stay in
14 the United States for five years?

15 Let me rephrase that. Have you chatted with BT
16 XXXXXXXX about how he has been able to stay in the United
17 States for five years?

18 A. (By the interpreter) I -- I actually didn't really ask
19 him much about that. But I did ask him, and he told me that
20 he passed a test.

21 Q. Did he tell you that he was able to get papers to stay
22 in the United States because he was cooperating with the
23 government in the case of Daniel Johnson?

24 A. (By the interpreter) No, we never spoke about something
25 like that.

15:32:42 1 Q. Did you ask him how you could stay in the United States
2 after this trial is over?

3 A. (By the interpreter) I asked him about that, about
4 going to school here and things like that, and he said he
5 doesn't know anything about that. So he just didn't know.

6 Q. Have you talked to an attorney about being able to stay
7 in the United States after the trial is over?

8 A. (By the interpreter) Like I stated earlier, I asked the
9 attorney about going to school here. I wanted to continue
10 my schooling here. But he did say that he didn't know.

11 Q. Do you know the name of this attorney?

12 A. (By the interpreter) I don't know -- I don't remember
13 the name of the attorney. He gave me his name card,
14 business card, but I -- I just don't remember his name.

15 Q. Okay. Where did you talk to the attorney?

16 A. (By the interpreter) He asked to meet with me at the
17 hotel.

18 Q. And when did that happen?

19 A. (By the interpreter) About a few days ago.

20 Q. And you say you have his card?

21 A. (By the interpreter) Yes, he gave me his card, but I
22 didn't pay attention -- pay attention to it, and I don't
23 know where I placed the card.

24 Q. You don't know where the card is?

25 A. (By the interpreter) I don't remember where I put it.

15:35:40

1 Q. Is your attorney here today?

2 A. (By the interpreter) No.

3 Q. So when you talked to the attorney at the hotel room a
4 few days ago, I think you just said you told him you wanted
5 to go to school here in the United States.

6 A. (By the interpreter) I said I wanted to go to school
7 here because I saw good schools here.

8 Q. And did he explain to you how you could do that?

9 A. (By the interpreter) So he said that he couldn't tell
10 me anything, and he had to discuss it with -- and he
11 couldn't say, and he explained to me that he was an attorney
12 to help the victims, you know.

13 Q. Do you plan to talk to him again after you are finished
14 testifying today?

15 A. (By the interpreter) No. I don't know because he
16 didn't set an appointment with me.

17 Q. Do you intend, after you are finished testifying today,
18 to look into the possibility of staying in the United States
19 and not going back to Cambodia?

20 A. (By the interpreter) I haven't thought about that, but
21 I just asked him about going to school here. I wanted to go
22 to school here.

23 Q. Are you going to think about it some more after this
24 trial, after you are done testifying here today?

25 A. (By the interpreter) I haven't thought about living

15:38:41 1 here, but I was just asking the attorney about going to
2 school here.

3 Q. Have you thought about the possibility of staying here
4 to go to school?

5 THE COURT: I think you have asked and answered
6 that question. I would ask you to move on.

7 BY MR. WEINERMAN:

8 Q. Do you remember, when you were in Cambodia, talking to
9 a man named Martin?

10 A. (By the interpreter) I don't remember his name is
11 Martin.

12 Q. Do you remember he was a tall man, thin, dark hair; had
13 a mustache, I believe.

14 A. (By the interpreter) Was he the one who helped Daniel?
15 Because I met a person who said that he was helping Daniel.

16 Q. Yes, this man was an investigator for Daniel who works
17 with us.

18 A. (By the interpreter) Yes, I met with him.

19 Q. And you remember telling him that Daniel never touched
20 you sexually?

21 A. (By the interpreter) Yes. When I first met him, I -- I
22 did say that.

23 Q. And do you also remember telling him that none of the
24 other children at Hope Transitions Center told you that
25 Daniel did anything sexual to them?

15:41:31 1 A. (By the interpreter) Well, at that time. But I don't
2 remember everything that I said.

3 Q. Okay. Are you saying that you didn't say that or you
4 just don't remember saying that?

5 A. (By the interpreter) I don't remember.

6 Q. You also testified earlier that BT XX stayed in the
7 same rule -- I am sorry -- the same room. BT XXXXXXXX stayed
8 in the same room with Daniel in, I believe, the second
9 house, is that correct?

10 A. (By the interpreter) No. Brother BT XX stayed with
11 Daniel or Daniel's room -- in Daniel's room since the old
12 house. I stayed with Daniel at the second house.

13 Q. So you are saying BT XX stayed with Daniel in the first
14 house?

15 A. (By the interpreter) Yes, at the first house.

16 Q. All right. And to your knowledge, was BT XX 19 years
17 old when he stayed with Daniel in the same room?

18 A. (By the interpreter) I don't know.

19 MR. WEINERMAN: A minute, judge?

20 THE COURT: Yes.

21 *(Counsel conferred with the defendant.)*

22 MR. WEINERMAN: Thank you. Nothing further.

23 THE COURT: Redirect.

24 MS. BRITSCH: Briefly, Your Honor.
25

15:44:00

REDIRECT EXAMINATION

BY MS. BRITSCH:

Q. I have a few more questions for you, SO XXX.

A. (By the interpreter) Yes.

Q. Mr. Weinerman asked you about the attorney you met with, and you said that attorney was associated with Hagar, is that correct?

A. (By the interpreter) Yes.

Q. And did Hagar hire that attorney for you?

A. (By the interpreter) I don't know. All I knew was that the attorney volunteered to help representing the victims.

Q. And is Hagar a nonprofit organization that works with child sexual abuse victims?

MR. WEINERMAN: Objection; leading. Objection; lack of personal knowledge.

THE COURT: Sustained.

MS. BRITSCH: Move on.

BY MS. BRITSCH:

Q. Mr. Weinerman asked you about your application to Hope Transitions Center when you were 13 years old. Do you remember that?

A. (By the interpreter) Yes.

Q. I am going to ask you to take a look at Government Exhibit 19 again, please.

Is that how old you were when your cousin filled

15:45:37 1 out your application to Hope Transitions Center?

2 A. (By the interpreter) Yes, I was about 12 or 13 years
3 old.

4 Q. And that's how old you are in that picture?

5 A. (By the interpreter) Yes.

6 MS. BRITSCH: May we please publish this photo to
7 the jury?

8 THE COURT: I believe it's -- yeah. Okay.

9 THE WITNESS: (By the interpreter) I think I was
10 about 15 -- I mean 12 or 13 years old in that picture.

11 BY MS. BRITSCH:

12 Q. Now, Mr. Weinerman asked you what you told APLE just
13 after Daniel Johnson's arrest.

14 A. (By the interpreter) Yes.

15 Q. Did you tell BT XX what Daniel Johnson had done to you
16 before Daniel Johnson's arrest?

17 INTERPRETER LIM: Can I say that again?

18 THE WITNESS (By the interpreter): Yes.

19 BY MS. BRITSCH:

20 Q. And did you tell Pastor Sopheak what Daniel Johnson had
21 done to you before Daniel Johnson's arrest?

22 A. (By the interpreter) Yes.

23 Q. Was that also before you had received any money from
24 the United States?

25 A. (By the interpreter) I don't understand that.

15:47:21 1 Q. Did you tell BT XX and Pastor Sopheak about the abuse
2 before you had gotten any money related to your testimony
3 here?

4 A. (By the interpreter) Yes, before.

5 Q. Has anyone from the FBI or the government told you how
6 much money or witness fees that you are entitled to under
7 United States law?

8 A. (By the interpreter) No, they never told me.

9 Q. And so when you testified on cross-examination that you
10 had received \$500, no one broke down for you how much was
11 for per diem and how much was for your witness fees,
12 correct?

13 MR. WEINERMAN: Objection; leading. Objection;
14 leading.

15 THE COURT: Overruled. But the word per diem
16 is -- I think you are going to have to rephrase the
17 question.

18 MS. BRITSCH: I agree, Your Honor.

19 THE WITNESS (By the interpreter): They told me
20 that the money was for food.

21 BY MS. BRITSCH:

22 Q. Now, I am going to go back and ask you again about
23 Hagar. Have you been working with Hagar for a few years
24 now?

25 A. (By the interpreter) Yes.

15:49:10 1 Q. And do you know what Hagar does?

2 A. (By the interpreter) I do.

3 Q. And what do they do?

4 A. (By the interpreter) To help the victims.

5 Q. And you mentioned that you told Pastor Sopheak about

6 what Daniel had done to you before his arrest, is that

7 correct?

8 A. (By the interpreter) Yes.

9 Q. Why did you tell Pastor Sopheak?

10 A. (By the interpreter) I told him because I was hoping

11 that he could help me a little bit.

12 Q. And how did you want him to help you?

13 A. (By the interpreter) In my mind I wanted him to talk

14 with Daniel so he would stop to do -- tell him to stop doing

15 something like that.

16 Q. And what was it that you wanted Daniel to stop doing to

17 you?

18 A. (By the interpreter) When he was playing with my penis

19 and things.

20 Q. You say playing with your penis and things. What other

21 things are you talking about?

22 A. (By the interpreter) Like using the hand to play the

23 penis, and then something else that's not good.

24 Q. And what is the something else that's not good?

25 THE COURT: This has been asked and answered.

15:51:35 1 MS. BRITSCH: Very well, Your Honor. May I ask
2 one follow-up on the using the hand to play?

3 THE COURT: Sure.

4 BY MS. BRITSCH:

5 Q. When he used his hand to play with your penis, did you
6 ejaculate?

7 MR. WEINERMAN: Objection; irrelevant.

8 THE COURT: It's beyond the scope of cross, but go
9 ahead. If we have to redirect, we can -- or recross.

10 THE WITNESS (By the interpreter): I did.

11 BY MS. BRITSCH:

12 Q. And you mentioned that Hagar helps victims. What type
13 of victims does Hagar help?

14 MR. WEINERMAN: Objection; lack of personal
15 knowledge.

16 THE COURT: I believe he said he understood what
17 Hagar did. So go ahead. If you can answer the question,
18 you can answer.

19 THE WITNESS (By the interpreter): According to
20 what I know, Hagar organization is designed to help the rape
21 victims.

22 BY MS. BRITSCH:

23 Q. And how do they help victims?

24 MR. WEINERMAN: Objection; beyond the scope, lack
25 of personal knowledge.

15:52:59

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THE COURT: Overruled.

MS. BRITSCH: Is that overruled, Your Honor?

THE COURT: Overruled. Yes, I am sorry.

THE WITNESS (By the interpreter): To help with guidance to encourage you, to help alleviate your fear and the feelings of being afraid.

BY MS. BRITSCH:

Q. And where is Hagar based?

A. (By the interpreter) The headquarters is in the U.S.

Q. And is there also a location in Cambodia?

A. (By the interpreter) Yes.

Q. SO XXX, do you see Daniel Johnson in the courtroom today?

A. (By the interpreter) Yes.

Q. Can you point him out for us, please?

A. (By the interpreter) There.

MS. BRITSCH: Your Honor, can we let the record reflect that the witness has pointed at the defendant, Daniel Johnson, please?

THE COURT: Right.

MS. BRITSCH: No further questions, Your Honor.

THE COURT: Any recross on those areas?

MR. WEINERMAN: Thank you.

RECROSS-EXAMINATION

BY MR. WEINERMAN:

15:54:32 1 Q. Has anyone talked to you, whether it was Hagar or the
2 prosecutors or the FBI, about collecting money against
3 Daniel?

4 A. (By the interpreter) No, never.

5 Q. Okay. No one talked to you about filing a lawsuit
6 against Daniel?

7 A. (By the interpreter) They were talking about filing a
8 complaint against him, but it was not about money or
9 anything like that.

10 Q. Has there been any discussion about collecting damages
11 from Daniel?

12 MS. BRITSCH: Objection, Your Honor. This is
13 outside the scope of redirect.

14 THE COURT: We have kind of gone back and forth on
15 Hagar on both sides, and I will allow it. I think we are
16 getting a little far afield, but go ahead.

17 THE WITNESS (By the interpreter): No, never.

18 BY MR. WEINERMAN:

19 Q. So a few minutes -- I believe on redirect you said you
20 told Pastor Sopheak about what Daniel had done to you?

21 A. (By the interpreter) Yes.

22 Q. And do you remember talking to the FBI agent named
23 Daniel in 2016 about this?

24 A. (By the interpreter) Yes.

25 Q. And isn't it true you told the FBI agent that you did

15:56:23 1 not tell Sopheak about anything that Daniel did to you?

2 A. (By the interpreter) I -- at that time I told him that
3 I didn't speak to Pastor Sopheak about those kind of things
4 too much, but I did tell him that I spoke to Brother BT XX a
5 lot about that.

6 Q. But not Sopheak?

7 But not Sopheak?

8 A. (By the interpreter) I spoke to Pastor Sopheak but it
9 was just a little bit. I spoke to him a little bit.

10 Q. A little bit about what?

11 A. (By the interpreter) About what Daniel did to me.

12 Q. Would it refresh your memory if you heard the tape of
13 the interview, the small portion in which you were asked by
14 the FBI agent whether you had told Sopheak?

15 A. (By the interpreter) I don't remember exactly what I
16 said, but I did say that I did tell Pastor Sopheak about
17 what happened a little bit.

18 Q. Okay. Didn't you tell the FBI agent when he asked you,
19 "Did you ever tell Sopheak?" And your answer was, "No."

20 Do you remember saying that to the FBI agent?

21 A. (By the interpreter) I don't remember saying that.

22 Q. And then when he said to you, "Never?" you said,
23 "Yeah."

24 A. (By the interpreter) I don't remember having -- saying
25 that.

15:59:18 1 Q. Would it refresh your memory if you heard the tape
2 recording of the conversation?

3 A. (By the interpreter) Yes. If you play it, I would
4 know. Yes. So this way I would know if I said that or not
5 because I don't remember, you know. Because right now I am
6 only telling the truth.

7 MR. WEINERMAN: With the court's permission, it's
8 33 seconds.

9 THE COURT: All right.

10 (Counsel conferred with staff.)

11 MR. WEINERMAN: It starts at 40 minutes.

12 (Exhibit played; not reported.)

13 BY MR. WEINERMAN:

14 Q. Did you ever tell -- do you remember ever telling
15 Sopheak that?

16 Do you remember saying that to him or not?

17 A. (By the interpreter) Now that you played this tape, I
18 remember. I remember I said that. But at the time I did
19 not remember if I said that. But I did, regarding that I
20 told Pastor Sopheak about it.

21 MR. WEINERMAN: Thank you. Nothing further.

22 MS. BRITSCH: May I have one follow-up question
23 just on that interview?

24 THE COURT: Yes.

25 **REDIRECT EXAMINATION**

16:03:09 1 BY MS. BRITSCH:

2 Q. SO XXX, when you spoke with Special Agent Dan
3 Garrabrant in the interview that you just heard, was there
4 an interpreter present for that interview?

5 A. (By the interpreter) No, there was not.

6 MS. BRITSCH: Nothing further, Your Honor.

7 **RECROSS-EXAMINATION**

8 BY MR. WEINERMAN:

9 Q. And do you speak English well enough to have a long
10 conversation with Agent Garrabrant?

11 INTERPRETER LIM: I am sorry, Counsel. Did you
12 say Agent --

13 BY MR. WEINERMAN:

14 Q. Do you speak English well enough to have a conversation
15 with Agent Garrabrant when you talked to him in 2016?

16 A. (By the interpreter) I knew some. I mean, enough.

17 Q. Do you speak -- sorry.

18 A. (By the interpreter) But I -- some words I didn't know.

19 Q. You speak English well, though, don't you?

20 A. (By the interpreter) Now I can speak better than
21 before.

22 THE COURT: All right. Thank you, SO XXX. You
23 are free to step down.

24 Next witness.

25 MR. SINHA: Your Honor, the United States calls

16:04:40 1 LS XXXXX.

2 THE COURT: If you'd like to step up here to the
3 witness stand and just remain standing next to the chair for
4 just a moment. And Ms. Pew will have you swear to tell the
5 truth.

6 THE WITNESS (By the interpreter): Yes.

7 THE CLERK: Please be seated.

8 State your name for the record, spelling your
9 first and last.

10 THE WITNESS (By the interpreter): My name is LS
11 XXXXXXXXXXXXXXXXXXXXXXXX.

12 THE COURT: LS XXXXX, I am Judge McShane.

13 LS XXXXX, do you speak any English?

14 THE WITNESS (By the interpreter): Yes. I know
15 how to speak some English.

16 THE COURT: It's important that you let the
17 translator translate the questions into Cambodian before you
18 answer. Okay?

19 THE WITNESS (By the interpreter): Yes.

20 THE COURT: And are you having any difficulty
21 understanding the Cambodian translator?

22 THE WITNESS (By the interpreter): No.

23 THE COURT: Okay. If you have any difficulty
24 understanding a question, please ask that the attorney
25 clarify the question. Okay?

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THE INTERPRETER: Yes.

THE COURT: All right. Go ahead, Mr. Sinha.

DIRECT EXAMINATION

BY MR. SINHA:

Q. Good afternoon, LS XXXXX. I have some questions for you, and the first one is what is your date of birth?

A. (By the interpreter) Okay. My birthdate is on XXXXXX, 2002.

Q. Okay. Is it possible that it's XXXXXXXXXX, 2002?

A. (By the interpreter) Yes. It's XXXX.

Q. Okay. And where were you born?

A. (By the interpreter) I was born in Kampong Cham Province in Cambodia.

Q. Okay. And LS X, there's a screen right down there, and I am going to ask for Exhibit 149 to be brought up.

I believe it's admitted, so it can be published?

THE COURT: It can be published.

BY MR. SINHA:

Q. And do you see your picture up there?

A. (By the interpreter) Yes, I do.

Q. Okay. And can you tell me what this is?

A. (By the interpreter) That is my passport.

Q. Okay. And who is the guy in the photograph?

A. (By the interpreter) That's my photo.

Q. Okay. And I don't know if you can see it on the

16:08:56 1 screen, but is your birthdate on this photograph -- excuse
2 me, on this passport, which reads June 10th, 2002, is that
3 accurate?
4 A. (By the interpreter) Yes, that is correct.
5 Q. Okay. We can take that down. Thank you.
6 So LS X, do you have any brothers or sisters at
7 all?
8 A. (By the interpreter) Yes, I do.
9 Q. How many brothers and sisters do you have?
10 A. (By the interpreter) I have four older brothers and two
11 older sisters.
12 Q. What are your siblings' names?
13 A. (By the interpreter) You mean all of them?
14 Q. All of them.
15 A. (By the interpreter) My oldest brother, his name is
16 Sith, Cheth, Cheat, ES X, and Chen.
17 Q. Okay. And is ES XXX one of your brothers or how would
18 I say -- how I would pronounce ES XXX?
19 A. (By the interpreter) Yes.
20 Q. Okay. And does he have another name?
21 A. (By the interpreter) Yes. It's ES X.
22 Q. Okay. And is he older than you or younger than you?
23 A. (By the interpreter) He's older.
24 Q. How much older is he?
25 A. (By the interpreter) Four or five years.

16:10:45 1 Q. And did ES XXX live with you at Hope Transitions
2 Center?

3 A. (By the interpreter) Yes.

4 Q. Okay. What do you do currently?

5 A. (By the interpreter) I am currently living at the
6 organization called Teuk Chivit. Teuk Ney Chivit.

7 (Reporter interrupted.)

8 THE WITNESS (By the interpreter): It's the
9 native -- it's like a -- it's T-U -- I am sorry. T-E-U-K,
10 Ney, N-E-Y, and then Chivit, C-H-I-V-I-T.

11 BY MR. SINHA:

12 Q. LS X, are you currently enrolled in school?

13 A. (By the interpreter) Yes.

14 Q. What grade are you?

15 A. (By the interpreter) Ninth grade.

16 Q. And what are your favorite subjects?

17 A. (By the interpreter) My language and mathematics.

18 Q. Are you good at mathematics?

19 A. (By the interpreter) Not really.

20 Q. LS X, I want to talk to you a little bit about the time
21 that you spent at the Hope Transitions Center.

22 Do you know what I am talking about?

23 A. (By the interpreter) Yes.

24 Q. How old were you when you moved to the Hope Transitions
25 Center?

16:12:28 1 A. (By the interpreter) Four, five, maybe six.
2 Q. What year do you think it was?
3 A. (By the interpreter) 2009.
4 Q. Okay. So in 2009 -- and you were born in 2007,
5 correct?
6 Excuse me. Pardon me. Let me start again.
7 You were born in 2002, and you moved to Hope
8 Transitions Center in 2009?
9 A. (By the interpreter) Yes.
10 Q. Okay. And did you move there by yourself or did one of
11 your siblings move with you?
12 A. (By the interpreter) I went with my -- one of my older
13 brothers, and someone took me there.
14 Q. Okay. And was ES XXX the older brother that you moved
15 there with?
16 A. (By the interpreter) Yes.
17 Q. And were you living at the Hope Transitions Center with
18 ES XXX from 2009 until 2013?
19 A. (By the interpreter) Yes.
20 Q. Why did you and ES XXX move to the Hope Transitions
21 Center?
22 A. (By the interpreter) Because -- because the difficulty
23 with our standard of living with our family, and my parents
24 didn't have the ability to raise us.
25 Q. What did your parents do for money?

16:14:26 1 A. (By the interpreter) Um, right now my dad is making --
2 baking brick pieces. And my mom collecting -- collect
3 recyclables.

4 Q. She is picking up things to recycle?

5 A. (By the interpreter) Yes. She picked up recyclables,
6 and she also purchased them.

7 Q. What were the things that living at Hope Transitions
8 Center would enable you and your brother to do that you
9 couldn't have done had you stayed with your parents?

10 A. (By the interpreter) It provided me with shelter, food,
11 and schooling.

12 Q. And were the other children at the Hope Transitions
13 Center mostly boys or mostly girls or was it an even mix?

14 A. (By the interpreter) The majority of us were boys.

15 Q. What was an average day like at the Hope Transitions
16 Center for you? What types of things did you do?

17 A. (By the interpreter) Go to school, play sports, and eat
18 food.

19 Q. Did you ever get in trouble?

20 A. (By the interpreter) Yes.

21 Q. What types of things did you get in trouble for?

22 A. (By the interpreter) Fighting, arguing with friends.

23 Q. Okay. And were you ever punished?

24 A. (By the interpreter) Yes.

25 Q. And what types of punishments did you receive?

16:17:10 1 A. (By the interpreter) Standing facing the wall.
2 Q. Did anyone ever hit you?
3 A. (By the interpreter) Yes.
4 Q. Who was that?
5 A. (By the interpreter) Daniel Johnson.
6 Q. What types of things would Daniel Johnson hit you for?
7 A. (By the interpreter) Fighting with friends.
8 Q. And where would he hit you?
9 A. (By the interpreter) On my butt.
10 Q. Did he hit you hard?
11 A. (By the interpreter) Yes, pretty hard.
12 Q. While you were at the Hope Transitions Center, did
13 anyone ever threaten you?
14 A. (By the interpreter) No.
15 Q. Where did you sleep most nights at the Hope Transitions
16 Center?
17 A. (By the interpreter) Sometimes at my room, sometimes at
18 Daniel Johnson's room.
19 Q. What types of things happened when you slept in Daniel
20 Johnson's room?
21 A. (By the interpreter) Um, like touching.
22 Q. Okay. Let's talk about that. What kind of touching?
23 A. (By the interpreter) Like I was touching him, and he
24 was touching me.
25 Q. Okay. And where was he touching you?

16:19:07 1 A. (By the interpreter) My penis and my body all over.
2 Q. Okay. And what was he touching you with?
3 A. (By the interpreter) Hand.
4 Q. Okay. And was that skin-on-skin contact?
5 A. (By the interpreter) Yes.
6 Q. And so was that skin-on-skin contact with your penis?
7 A. (By the interpreter) Yes.
8 Q. Did he -- where were you touching Daniel Johnson?
9 A. (By the interpreter) His penis.
10 Q. Okay. And was that your hand touching his penis?
11 A. (By the interpreter) Yes.
12 Q. Why was Daniel Johnson touching your penis and you
13 touching Daniel Johnson's penis?
14 A. (By the interpreter) To, you know --
15 Q. Did Daniel Johnson -- did you touch Daniel Johnson's --
16 let me start again.
17 Did Daniel Johnson ever ask you to touch his
18 penis?
19 A. (By the interpreter) Yes.
20 Q. Did he ever place your hand on his penis?
21 INTERPRETER LIM: I am sorry?
22 BY MR. SINHA:
23 Q. I am sorry. Did he ever place your hand on his penis?
24 A. (By the interpreter) Yes.
25 Q. When Daniel Johnson was touching your penis or you were

16:20:59 1 touching Daniel Johnson's penis, did Daniel Johnson ever say
2 anything to you?
3 A. (By the interpreter) Never.
4 Q. Okay. Did he ever say anything after he had touched
5 your penis or asked you to touch his penis, in terms of like
6 apologizing?
7 A. (By the interpreter) No.
8 Q. Did Daniel Johnson ever touch your penis with anything
9 other than his hand?
10 A. (By the interpreter) His mouth.
11 Q. So tell me what he did with his mouth when he was
12 touching your penis.
13 A. (By the interpreter) He sucked.
14 Q. Okay. And did you ejaculate?
15 A. (By the interpreter) No.
16 Q. When Daniel Johnson was touching your penis with his
17 hand or when you were touching Daniel Johnson's penis with
18 your hand, did either of you ever ejaculate?
19 A. (By the interpreter) Daniel Johnson -- I am sorry.
20 Daniel Johnson came.
21 Q. Okay. And by "came" -- fair enough.
22 Where did he come?
23 A. (By the interpreter) His penis.
24 Q. And where did what came out of his penis land?
25 A. (By the interpreter) On his stomach.

16:23:17 1 Q. Okay. Did he ever come, and what came out of his penis
2 land on you?
3 A. (By the interpreter) Yes.
4 Q. Did he ever come, and what came out of his penis land
5 on the bed?
6 A. (By the interpreter) Yes.
7 Q. How many times when you were with Daniel Johnson did he
8 come, either on you or on himself or on the bed?
9 A. (By the interpreter) Many times, countless of times.
10 Q. And every time he came, was it either because you were
11 touching his penis or because he was touching his own penis
12 or because he was doing other things with you?
13 A. (By the interpreter) I don't understand.
14 Q. Did Daniel Johnson ever ask you to put your mouth on
15 his penis?
16 A. (By the interpreter) Yes.
17 Q. And did you ever put your mouth on his penis?
18 A. (By the interpreter) No.
19 Q. Did -- what happened when he would try to get you to
20 put your mouth on his penis?
21 A. (By the interpreter) He pushed down on my head.
22 Q. And what did you do?
23 A. (By the interpreter) I ran away.
24 Q. And why did you run away?
25 A. (By the interpreter) Because I didn't want to do that.

16:25:43 1 Q. Was there ever a time when Daniel Johnson touched your
2 body with his penis that wasn't -- let me just ask this
3 again.

4 Was there ever a time when Daniel Johnson's penis
5 touched a part of your body that wasn't your hand?

6 A. (By the interpreter) Yes.

7 Q. What part of your body did his penis touch?

8 A. (By the interpreter) My butt.

9 Q. And how were you positioned that his penis was touching
10 your butt?

11 A. (By the interpreter) I was laying facedown.

12 Q. And where was Daniel Johnson?

13 A. (By the interpreter) He was standing there doing it.

14 Q. And what were you laying on?

15 A. (By the interpreter) On the bed.

16 Q. Okay. And what was he standing on?

17 A. (By the interpreter) He was standing on the floor.

18 Q. Okay. And were your legs on or off the bed?

19 A. (By the interpreter) My legs were down on the floor,
20 but my body and my butt were on the bed.

21 Q. Were you bent over?

22 A. (By the interpreter) No. I was facing down just like
23 normally, but your legs just kind of hanging.

24 Q. The times when Daniel Johnson touched your butt with
25 his penis, was that skin-on-skin contact?

16:28:25 1 A. (By the interpreter) Yes.

2 Q. Did Daniel Johnson ever try to put his penis inside

3 your butt?

4 A. (By the interpreter) Yes, once.

5 Q. And did his penis penetrate your butt?

6 A. (By the interpreter) Yes.

7 Q. And how did that feel?

8 A. (By the interpreter) Painful.

9 Q. How many times did Daniel Johnson touch your butt with

10 his penis?

11 A. (By the interpreter) Many times. I can't count it.

12 Q. How often did Daniel Johnson do these things to you,

13 either touching your butt with his penis or touching your

14 penis with his mouth or having you touch his penis or

15 touching your penis?

16 A. (By the interpreter) Many times.

17 Q. And did those things occur the whole time you were at

18 Hope Transitions Center?

19 A. (By the interpreter) Yes.

20 Q. How many times a week would you say, on average, those

21 things happened?

22 A. (By the interpreter) Three to four times.

23 Q. Per week?

24 A. (By the interpreter) Yes.

25 Q. When Daniel Johnson was touching your penis, was he

16:30:26 1 ever doing anything with his own penis?

2 A. (By the interpreter) He masturbated himself.

3 Q. While he was touching your penis?

4 A. (By the interpreter) Yes.

5 Q. And in those instances, did he ejaculate?

6 I am sorry. In those instances, did he come?

7 A. (By the interpreter) Yes.

8 Q. And where did he come?

9 A. (By the interpreter) His dick.

10 Q. Where did what came out of his dick go -- land?

11 A. (By the interpreter) On his stomach.

12 Q. Did all -- all the things that we are describing, did

13 all those things take place in Daniel Johnson's bedroom at

14 Hope Transitions Center?

15 A. (By the interpreter) Yes.

16 Q. And how soon after you are arrived at Hope Transitions

17 Center did those things start happening?

18 A. (By the interpreter) Two to three weeks.

19 Q. Two to three weeks after you arrived, Daniel Johnson

20 started doing those things to you?

21 A. (By the interpreter) Yes.

22 Q. While were you living at Hope Transitions Center, did

23 you ever tell anyone about the things that Daniel Johnson

24 was doing to you?

25 A. (By the interpreter) I told my older brother and also

16:32:30 1 Sopheak.

2 Q. Your older brother ES XXX?

3 A. (By the interpreter) Yes.

4 Q. Did you tell ES XXX all the details of what Daniel was

5 doing to you?

6 A. (By the interpreter) Yes.

7 Q. And what did you tell Pastor Sopheak?

8 A. (By the interpreter) I told that Daniel did that to me.

9 Q. Do you know if Pastor Sopheak did anything after you

10 told him that?

11 A. (By the interpreter) He went and talked to actually

12 warn Daniel Johnson about it.

13 Q. And did Daniel Johnson stop doing those things after

14 Pastor Sopheak talked to him?

15 A. (By the interpreter) Yes, he stopped.

16 Q. Do you know what Pastor Sopheak said to Daniel?

17 A. (By the interpreter) I -- I don't know, but I just knew

18 that he scolded him, scolded him not to do that again.

19 Q. And then was there a point at which the Cambodian

20 National Police came to Hope Transitions Center?

21 A. (By the interpreter) Yes. Two or three weeks later,

22 the police came.

23 Q. So two or three weeks after you talked to Pastor

24 Sopheak, the police came to Hope Transitions Center?

25 A. (By the interpreter) Yes.

16:34:32 1 Q. And was that also two or three weeks after Pastor
2 Sopheak scolded Daniel and the abuse stopped?
3 A. (By the interpreter) Yes.
4 Q. While were you at Hope Transitions Center, did you
5 ever -- did anyone else ever talk to you about things that
6 Daniel was doing to them?
7 A. (By the interpreter) No.
8 Q. Do you recall Daniel being arrested in 2013 at Hope
9 Transitions Center?
10 A. (By the interpreter) Yes, I do.
11 Q. And do you remember the Cambodian National Police being
12 there?
13 A. (By the interpreter) Yes, I do remember.
14 Q. What was it like the day that Daniel was arrested?
15 How did you feel?
16 A. (By the interpreter) I was scared.
17 Q. What were you scared of?
18 A. (By the interpreter) I was scared because I was afraid
19 that we were not going to have a place to stay and we
20 couldn't go to school anymore.
21 Q. And when you say "we," who do you mean?
22 A. (By the interpreter) I don't understand.
23 Q. You were scared that everybody at Hope Transitions
24 Center wouldn't have a place to stay or were you scared
25 about you and your brother not having a place to stay?

16:36:30 1 A. (By the interpreter) I was afraid for all of us because
2 we -- all of us who lived there, we loved each other.

3 (Reporter interrupted.)

4 THE WITNESS (By the interpreter): Yeah, we loved
5 each other and provided love for one another, as siblings.

6 BY MR. SINHA:

7 Q. On the day of Daniel Johnson's arrest, were the
8 Cambodian National Police officers nice to you?

9 A. (By the interpreter) Yes.

10 Q. On that same day, did you talk to people from an
11 organization called APLE?

12 A. (By the interpreter) Yes, I did.

13 Q. And in talking to the Cambodian National Police and
14 APLE, did you tell anyone the things that Daniel had been
15 doing to you?

16 A. (By the interpreter) Yes, I did, but sparingly.

17 Q. When you say "sparingly," what do you mean?

18 A. (By the interpreter) Um, well, "sparingly," meaning
19 that I said that he did that, but I just didn't go in -- in
20 depth.

21 Q. Okay. Did you tell them everything that he had done to
22 you?

23 A. (By the interpreter) No, I did not.

24 Q. Why didn't you tell them everything that day?

25 A. (By the interpreter) Well, because I was embarrassed.

16:38:55 1 Q. Do you remember speaking to a woman with the FBI named
2 Martha?

3 A. (By the interpreter) Yes, I do.

4 Q. And have you seen a video of you talking to Martha?

5 A. (By the interpreter) Yes.

6 Q. And in that video talking to Martha, did you tell
7 Martha more things, more information about what Daniel had
8 done to you?

9 A. (By the interpreter) I -- I told her, but I just told
10 her so many times because I lied to her. I -- because it
11 happened many times.

12 Q. You didn't tell Martha how many times it had really
13 happened?

14 A. (By the interpreter) Correct.

15 Q. But today are you telling us the truth about how often
16 it happened?

17 A. (By the interpreter) Yes.

18 Q. Why didn't you tell Martha how many times it had
19 happened?

20 A. (By the interpreter) Because I was kind of afraid.

21 Q. What were you afraid of?

22 A. (By the interpreter) It's hard for me to answer.

23 MR. SINHA: If I could just have one moment,
24 please?

25 THE COURT: I think what we are going to do, let's

16:40:51 1 break now.

2 Folks, we are going to break. We'll come back in
3 the morning at nine o'clock. We'll meet you here at nine
4 o'clock in the morning, so that we can all get started right
5 at then. We'll be in recess until then.

6 Thanks again for your patience and for your work
7 on this case. I appreciate it. Please continue to abide by
8 the rules of not looking up any information or talk to
9 anybody about the case.

10 With that, we'll be in recess for the evening.

11 *(Jury out.)*

12 THE COURT: We'll be in recess until 9:00. If the
13 witness is still in the middle of testimony, the one thing I
14 ask is that we not talk to the witness about testimony.

15 MR. SINHA: Sure.

16 THE COURT: I mean, there obviously may be other
17 logistical things to talk about, but not about the testimony
18 itself. Okay?

19 MR. SINHA: Absolutely, Your Honor. Is it okay if
20 I advise him of that --

21 THE COURT: Yes.

22 MR. SINHA: -- before he leaves?

23 THE COURT: Yes. All right.

24 MR. WEINERMAN: Judge, can I make one request?

25 *(Reporter interrupted.)*

16:42:15 1 MR. WEINERMAN: No, my mike is not on. Now it is.

2 So, Judge, I feel we are in kind of a tight spot
3 here as far as the testimony of the last witness, SO XXX.
4 And that is, it appears there was a discussion of some sort
5 with an attorney. He was rather vague about it. And I
6 think some inquiry has to be made in some way whether the
7 witness expects or intends to try to obtain status in the
8 United States or stay here.

9 I have attempted to talk to the attorneys. They
10 have been very cordial, but they have not provided any
11 substance. I suppose they could claim the attorney-client
12 privilege.

13 But it seems to me that the government has an
14 obligation under *Brady* and *Giglio* and a case called *Kyles v.*
15 *Whitley* to disclose to the defense anything regarding bias
16 or benefits or motive to testify, whether the government
17 knows about it or not.

18 So what I am saying is I think some inquiry has to
19 be made. I have attempted to do it. And I think if they
20 won't cooperate with me, the government has an obligation to
21 disclose to the defense whether the witness has discussed
22 and intends to make application to stay in the United States
23 now that his testimony is done.

24 THE COURT: Certainly a ripe area for
25 cross-examination. I think maybe the government needs some

16:43:40 1 time to kind of think about what the request is and whether
2 there is really anything to comply with. Certainly, the
3 government is not in a position to force privileged
4 information from an attorney representing one of the
5 victims.

6 MR. SWEET: Your Honor, may the interpreter stop
7 interpreting, since this does not involve LS X?

8 THE COURT: Yes.

9 LS X, you can go ahead and step down and be
10 excused for now.

11 My thought is let's think about it and revisit it
12 before nine o'clock tomorrow morning.

13 I am sorry I am rushing off. My doctor was not
14 able to see me earlier, but can see me now.

15 MR. SINHA: Thank you, Your Honor.

16 MS. MAXFIELD: Thank you, Your Honor.

17 *(The proceedings were concluded this*
18 *1st day of May, 2018.)*
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16:44:24 1 I hereby certify that the foregoing is a true and
2 correct transcript of the oral proceedings had in the
3 above-entitled matter, to the best of my skill and ability,
4 dated this 1st day of May, 2018.

5
6 /s/Kristi L. Anderson

7 Kristi L. Anderson, Certified Realtime Reporter
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